

and in a society committed to the rule of law, trying to get the law right is what it means to be fair and impartial.

This is a great judge. I urge you to vote in favor of her confirmation. Thank you, Senators.

Senator KLOBUCHAR. Thank you very much. We next have Dr. Charmaine Yoest who is the President and CEO of Americans United for Life, the first national pro-life organization in the nation whose legal strategists have been involved in every pro-life case before the United States Supreme Court since *Roe v. Wade*.

Dr. Yoest began her career in the White House during the Reagan administration. She has also worked as the Project Director of the Family Gender and Tenure Project at the University of Virginia and as a Vice President at the Family Research Council. Welcome, Dr. Yoest. We look forward to your testimony.

STATEMENT OF DR. CHARMAINE YOEST, AMERICANS UNITED FOR LIFE

Dr. YOEST. Thank you very much, Senator Klobuchar, Ranking Member Sessions and members of the committee for inviting me to testify before you today.

As you said, I am here on behalf of Americans United for Life, and we are the nation's oldest pro-life legal organization. Our vision at AUL is a nation where everyone is welcomed in life and protected in law.

We have been committed to defending human life through vigorous judicial legislative and educational efforts since 1971 and we have been involved in every abortion related case before the United States Supreme Court beginning with *Roe v. Wade*.

I am here today because of AUL's deep concern about the nomination of Judge Sonia Sotomayor to the United States Supreme Court. A vote to confirm Judge Sotomayor to our highest court is a vote for unrestricted abortion on demand and a move toward elevating abortion as a fundamental right equal to our freedom of religion and freedom of speech.

A nominee's judicial philosophy goes to the heart of his or her qualifications to serve on the United States Supreme Court. Based on Judge Sotomayor's record of prior statements combined with her over a decade-long service on the board of the Puerto Rican Legal Defense and Education Fund, Judge Sotomayor's judicial philosophy makes her unqualified to serve on the Supreme Court.

When judges fail to respect their limited role under our Constitution by imposing their personal preferences regarding public policy through their decisions, our entire judicial system of equal justice under the law is corrupted.

In a series of speeches as we have heard chronicled here this week, Judge Sotomayor has indicated a troubling willingness to celebrate her own personal preferences and characteristics.

Several references have been made during this hearing to the judge's 2001 wise Latina speech. I would note that in that very same speech she stated that 'personal experiences affect the facts that judges choose to see.' Not just what they do see, but what they choose to see.

Of even greater concern, Judge Sotomayor stated in the same lecture that ‘the aspiration to impartiality is just that. It is an aspiration.’

However, impartiality is not merely an aspiration. Impartiality is a discipline and its necessity is enshrined in the judicial oath. A judge who injects personal experiences into a decision corrupts the very foundations of our judicial system.

Perhaps the clearest example of Judge Sotomayor’s problematic philosophy is her April 2009 speech in which she said, ‘Ideas have no boundaries. Ideas are what set our creative juices flowing. Ideas are ideas and whatever their source, if it persuades you then you are going to adopt its reasoning.’

We see her here building a case for judicial activism, yet creativity is the approach Americans want least from a judge. A judge who approaches the bench seeking to ‘implement ideas’ is an activist judge by definition.

The laboratories of democracy in our system should remain firmly lodged in the state legislatures, not preempted from the court.

These troubling speeches did not occur in isolation. Looking at the totality of the judge’s record must include her 12 years of service on the board of the Puerto Rican Legal Defense and Education Fund. During that time, the organization filed not one, but six amicus briefs in five-abortion related cases before the Supreme Court.

Given her particular emphasis on personal viewpoint in jurisprudence, we believe these cases become uniquely relevant in providing insight into her judicial philosophy.

Judge Sotomayor served the fund as a member and vice president of the board of directors and also as chairperson of the Education and Litigation Committees and has been described as an involved and ardent supporter of their various legal efforts.

What then does her tenure with the organization tell us about her judicial philosophy? The Fund briefs consistently argued the position that abortion is a fundamental right, expressing hostility to any regulation of abortion, including parental notification, informed consent and bans on partial birth abortion.

For example, in *Planned Parenthood v. Casey*, the Fund compared abortion to the First Amendment right to free speech and argued that any burden on the right to abortion was unconstitutional.

In *Ohio v. Akron* and *Casey*, the Fund asked the court to strike down parental involvement statutes insisting that minors should be ‘protected against parental involvement that might prevent or instruct the exercise of their right to choose.’

In *Williams v. Zbaraz*, the Fund argued that failure to publicly fund abortions was discriminatory. In *Webster v. Reproductive Health Services*, the Fund argued against, against a requirement that physicians personally counsel patients. They even argued in *Webster* that strict scrutiny is required because of the preciousness of the fundamental right to abortion, underscoring not just a willingness to engage in creative jurisprudence, but an ideological commitment to advancing an extremist abortion agenda.

In conclusion, I would like to end on a personal note related to the Fund briefs. We have heard quite a bit about settled versus unsettled this week, and the one thing we do know, that as we have

seen this week, this country is still very unsettled about abortion doctrine.

However, among the American people there are some elements of abortion related policy that absolutely do provide common ground. Preeminent among these is a core American belief in the bonds between parent and child.

I have five children and the notion that my daughters might be taken for a surgical procedure without my knowledge is horrific. This common sense commitment to protect our children is overwhelmingly shared among all of those who identify themselves as pro-life and pro-choice, and yet it is precisely these kinds of common sense policies like parental notification that are threatened by this nomination.

In the Fund's brief in *Ohio v. Akron*, they argued that 'the court would also need to consider whether the state through giving the parents confidential information has enhanced these parents' ability to indoctrinate, control or punish their minor daughters who choose abortion.'

This is a viewpoint far outside the mainstream of American public opinion and it points to another truth about the Fund arguments in their world view which the evidence indicates Judge Sotomayor shares. While arguing to promote abortion to a fundamental right equivalent to the freedom of religion or speech, they actually wish to elevate it even further, placing it singularly alone among rights beyond the reach of the American public to regulate or even debate. Thank you very much.

Senator KLOBUCHAR. Thank you very much. Next we have Sandy Froman. Sandy Froman is the Past President of the National Rifle Association of America. Ms. Froman is also currently a member of the NRA Board of Directors where she has served since 1992 and in 2007 was unanimously elected to a lifetime appointment on the NRA Council.

A graduate of Stanford University and Harvard Law School, Ms. Froman is a practicing attorney and speaks and writes regularly on the Second Amendment. Welcome to the committee, we look forward to your testimony.

STATEMENT OF SANDY FROMAN, ESQ., ATTORNEY, GUN RIGHTS ADVOCATE, AND FORMER PRESIDENT OF THE NATIONAL RIFLE ASSOCIATION

Ms. FROMAN. Thank you, Madam Chair. Chairman Leahy, Ranking Member Sessions, Senator Hatch, thank you for the opportunity to appear before this committee today to comment on the nomination of Sonia Sotomayor as it relates to her views on the Second Amendment.

It is critical that a Supreme Court Justice understand and appreciate the origin and meaning of the right of the people to keep and bear arms, a right exercised and valued by almost 90 million American gun owners.

Yet Judge Sotomayor's record on the Second Amendment and her unwillingness or inability to engage in any meaningful analysis of this enumerated right when twice given the opportunity to do so suggests either a lack of understanding of Second Amendment jurisprudence or hostility to the right.